IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Civil Writ Petition No.3466 of 2005

Smt.Kavita Sunder Varyani & ors. Petitioners
Vs.
The Pune Municipal Corporation & anr. Respondents

Mr.S.M.Oka with Mr.Amber Joshi for petitioners.
Mr.R.S.Khadapkar h/f. Mr.R.G. Ketkar for Resp. Nos. 1 and 2.

CORAM: B.H.MARLAPALLE,J.

June 12, 2006.

P.C.

. Heard Mr.Oka, the learned counsel for the petitioners who claim to be the LRs of the original plaintiff in Regular Civil Suit No.1986 of 1988. The said suit was filed challenging the notice issued by the respondent - Corporation calling upon the plaintiff to vacate the notice premises. The original plaintiff died on 25/7/1994 and initially though temporary injunction order came to be passed in favour of the plaintiff, the lower Appellate Court was pleased to dismiss the application for temporary injunction. The original plaintiff, therefore, approached this Court by way of a writ petition and in the same the LRs of the original plaintiff were brought on record. The present petitioner no.1 is the wife of the original plaintiff. This Court

disposed off the petition by directing the trial Court to dispose off RCS Suit No.1986 of 1988 within six months. No steps were taken to bring the LRs of the plaintiff on record and, therefore, the suit was dismissed on 19/9/1996.

. Misc. Application No.218 of 200 was filed for condonation of delay in applying for restoration of the suit and the same came to be rejected by the impugned order dated 7/1/2005 passed by the learned Civil Judge, Junior Division at Pune.

. The trial Court noted that the order of abatement was claimed to have been challenged by filing an appeal and in any case the suit was dismissed for non-prosecution. The entire evidence and documents went to show that the application filed belatedly had failed to make out good and sufficient reasons to condone the delay. Obviously these proceedings in the trial Court to this Court in the second round clearly defeated the notice issued by the Municipal Corporation and the delay in approaching the trial Court for restoration of the suit could legitimately be said to be deliberate.

. The view taken by the trial Court in rejecting the application for condonation of delay of four years and 150 days cannot be said to be perverse or grossly erroneous so as to cause interference under Article 227 of the Constitution.

. The petition is rejected summarily.

(B.H.MARLAPALLE,J.)